IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE FIFTEENTH DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE S.ANANDA REDDY

WRIT PETITION NO: 12542 of 2005

Between:

D. Anjaiah, S/o. Late Sayanna,
E.No. 101120, R/o. 17-2-314/93-A, Kurmaguda, Poolathota,
Saidabad, Hyderabad.

..... PETITIONER

AND

1 APSRTC, Musheerabad, Hyderabad. rep by its Managing Director.
2 The Regional Manager (HCR), APSRTC, J.B.S., Secunderabad.
3 The Depot Manager, APSRTC, Bus Depot, Midhani, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate writ or direction particularly one in the nature of writ of Mandamus declaring the impugned Proc. No. P1/194)/05-MDN dated 03-6-2005 in making the petitioner to retire form service on the ground of loss of vision without providing any suitable alternative employment as required under section 47 of The persons with Disability (Equal Opportunities, Protection of Rights & Full Participation) Act 1995 as arbitrary, unjust and in violative of above Act and in violation of Art. 21 of the Constitution of India and consequently direct the respondents to provide any suitable alternative employment like attender, re in the enquiry etc., along with all consequential benefits in the interest of justice and fair play

Counsel for the Petitioner: MR.V.NARASIMHA GOUD

Counsel for the Respondents: MR.V.T.M.PRASAD (S.C.FOR APSRTC)

The Court at the stage of admission made the following:

ORDER:

This writ petition is filed by the petitioner aggrieved by the action of the respondents in issuing proceedings dated 03-06-2005 making the petitioner to retire from the service on the ground of loss of vision without providing any suitable alternative employment as required under Section 47 of The Persons With Disability (Equal Opportunities, Protection of Rights & Full Participation) Act, 1995, as arbitrary, unjust and violative of the provisions of the above Act and the provisions of the Constitution of India, and consequently, sought for a direction to the respondents to provide suitable alternative employment to the petitioner.

2. It is stated that the petitioner was appointed as a Conductor on 24-04-1983 and his services were also regularized. During the month of December, 2002, the petitioner fell sick due to eye problem and for the same he took treatment in the APSRTC Dispensary, where he had undergone eye operation on 13-12-2002 and 27-12-2002 with reference to both the eyes. However, it is stated that even after operation, the petitioner instead of regaining the vision, suffered more loss of vision. Therefore, the petitioner was sent to the Super Specialty Hospitals like L.V Prasad Eye Institute and Sarojini Devi Eye Hospital, but there was no improvement. Therefore, the petitioner made a representation for providing alternative employment in view of his disability. Instead of providing alternative employment, the respondents passed the impugned order basing on the report of the medical board and he was made to retire with effect from 03-06-2005. Hence, the present writ petition.

3. At the time of hearing, the learned counsel for the petitioner relied upon a judgment of the Apex Court reported in **Kunal Singh v. Union of India,** wherein it was held that:

> "An employee, who acquired disability during his service, is sought to be protected under Section 47 of the Act specifically. Such employee, acquiring disability, if not protected, would not only suffer

himself, but possibly all those who depend on him would also suffer. The very frame and contents of Section 47 clearly indicate its mandatory nature. In construing a provision of a social beneficial enactment that too dealing with disabled persons intended to give them equal opportunities, protection of rights and full participation, the view that advances the object of the Act and serves its purpose must be preferred to the one which obstructs the object and paralyses the purpose of the Act. The language of Section 47 is plain and certain casting statutory obligation on the employer to protect an employee acquiring disability during service."

4 . Under the above circumstances, the impugned proceedings of retirement of the petitioner passed by the respondents is set aside and the respondent-Corporation is directed to continue the petitioner in service and provide any other alternative employment protecting all the benefits to which he is entitled.

5. Accordingly, the writ petition is allowed. No order as to costs.

S.ANANDA REDDY, J

15th June, 2005

SKM

To

1 The Managing Director, APSRTC, Musheerabad, Hyderabad.

2 The Regional Manager(HCR), APSRTC, J.B.S., Secunderabad.

3 The Depot Manager, APSRTC, Bus Depot, Midhani, Hyderabad.

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